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Tarek N. Fahmi
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

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OFFICE OF PETITIONS

In re Application of :
Wen et al. : DECISION ON PETITION
Application No. 09/846,452 :
Filed: April 30, 2001 :
Atty Docket No. 3997P007 :

This is a decision on the PETITION UNDER 37 C.F.R. § 1.182 TO WITHDRAW THE NOTICE OF ABANDONMENT (ALTERNATIVELY, PETITION UNDER 37 C.F.R. § 1.137(a) TO REVIVE) filed May 17, 2006.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed January 12, 2006. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective April 13, 2006. A courtesy Notice of Abandonment was mailed on May 3, 2006.

Petitioner states that a response to the Office action was deposited in the USPS "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on May 12, 2006. This response included an amendment and a petition and fee for extension of time for response within the first month. In support thereof, petitioner submits a copy of those papers including the extension of time as maintained to have been timely filed.

Petitioner's evidence has been reviewed, and is persuasive. However, full consideration of their evidence is unnecessary. Their response, including an extension of time, is present in the application with a date of receipt of May 12, 2006.

The one-month extension of time, required to make the response timely, was previously charged to petitioner's Deposit Account.

Accordingly, the Notice of Abandonment mailed May 3, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.


The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The petition fee of \$400 submitted is being refunded to petitioner's Deposit Account, as authorized. Because consideration of the alternative petition under 1.137(a) is unnecessary, no petition fee was charged for such consideration.

Technology Center AU 2663 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on May 12, 2006.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions